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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,009	10/14/2003	Michael D. Gerdes	HE 8698US	4282
1688	7590	12/02/2005	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			REIS, TRAVIS M	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/685,009	Applicant(s) GERDES ET AL.	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 20-35, 37, 39-43 and 60-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 9 is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 20-35, 37, 39-43 and 60-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Upon further consideration and in response to applicant's arguments that the arguments presented at pages 15 and 16 of the Amendment filed 11/8/04 were not specific towards a comparison of slots and detents, and instead illustrated how embodiments shown in Species I and Species II were directed to the same function, i.e. mounting flange assemblies configured to provide infinite radial adjustment, the election between Species I and II is required again, i.e. Species II is no longer rejoined. Based on applicant's previous election of Species I, claims 1-3, 9, 20-28, & 61-64 will be further considered on the merits.
2. The restriction requirement regarding Species I and Species II stated in the Office action of 9/21/2004 is repeated here and is made Final.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the identifying indicia associated with each of the slots must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 21-26 are objected to because of the following informalities:

In claim 21, line 1, after "flange", the following text should be inserted ---assembly---.

In claim 22, line 1, after "flange", the following text should be inserted ---assembly---.

In claim 23, line 1, after "flange", the following text should be inserted ---assembly---.

In claim 24, line 1, after "flange", the following text should be inserted ---assembly---, furthermore, in line 2, "said slots" has improper antecedent basis as it is not clear which slots (i.e. the flange plate slots or the adjusting plate slots) are being referenced.

In claim 25, line 1, after "flange", the following text should be inserted ---assembly---.

In claim 26, line 2, "an" should be ---the single---, in line 3, after "flange", the following text should be inserted ---assembly---.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Beck (U.S. Patent 5174032).

Beck discloses a system for mounting vehicle wheels, each wheel having an axial pilot hole and a plurality of radially spaced lug holes disposed in one of a plurality of symmetric and axially centered configurations, about a spindle shaft of a vehicle wheel balancer, comprising a single mounting flange assembly configured for placement on the spindle shaft, said single mounting flange assembly including a flange plate (1) and a plurality of mounting pins (3, 5, 7), each of said plurality of mounting pins including a guide pin (X see below) adapted for engagement with the flange plate and a contact tip (Y) adapted for engagement with the plurality of radially spaced lug holes (Figure 1); and wherein said single mounting flange assembly is configured to provide infinite radial adjustment (i.e. slots 2, 4, 6) of said contact tips about the spindle shaft between a minimum radial dimension and a maximum radial dimension to engage the plurality of radially spaced lug holes for a plurality of symmetric and axially centered configurations each having a different number of lug holes (Figures 4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 20-28, & 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (U.S. Patent 3888128) in view of Beck.

With reference to claims 1, 3, 20-24, 26, & 61-64 Mitchell discloses a system, and method of using an adjustable mounting flange (10) for mounting vehicle wheels (19) each having different lug patterns on the shaft of a balancing machine (15) which comprises a flange plate (34) having a central bore extending from a front face to a rear face (Figure 2); an adjusting plate (35) disposed adjacent said rear face and coupled to said flange plate for coaxial

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rotational movement relative to said flange plate (Figure 4) and wherein said plates are rotated relative to each other as part of the alignment process to common radial positions simultaneously (col. 3 lines 39-42); a plurality of slots passing through said flange plate(37); a plurality of slots passing through said adjusting plate(38); a plurality of mounting pins (30), each of said plurality of mounting pins including a guide pin (28) adapted for engagement with said flange plate and a contact tip (31) adapted for engagement with the plurality of wheel lug holes, wherein said each of said slot sets are arranged in annular patterns (Figure 4-6) with identifying indicia (48) being associated a slot; and wherein said plurality of slots in said flange plate and said plurality of slots in said adjusting plate cooperatively define one or more sets of unobstructed passages through said adjustable mounting flange (Figure 4); and wherein each of said unobstructed passages in a set of unobstructed passages is disposed at a common radial distance from an axis of said central bore (Figure 5), said common radial distance associated with a rotational position of said adjusting plate, wherein said rotation of said adjusting plate relative to the flange plate alters the radial position of each of said unobstructed passages and plurality of guide pins simultaneously (col. 3 lines 39-42); wherein said plurality of slots passing through said flange plate include at least on set of circumferentially equidistant spaced slots, said slots in said set having a common skewed configuration and wherein the adjusting plate has a different common skewed configuration (Figure 4); wherein a range of rotational movement of said adjusting plate about said central axis corresponds with a range of radial movement of each of said unobstructed passages in said set of unobstructed passages between an inner radial position and an outer radial position (Figure 4).

Mitchell does not disclose said mounting flange assembly is a single mounting flange assembly able to engage the plurality of radially spaced lug holes.

Beck discloses a universal wheel gauge (1) which singularly accommodates a plurality of

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lug hole spacings, i.e. 3-lug hole arrangements via slots (2) (Figure 1), 4-lug hole arrangements (Figure 4A), 5-lug hole arrangements (Figure 4B), 6-lug hole arrangements (Figure 4C), and 8-lug hole arrangements (Figure 4D), in order to be more convenient (col. 1 lines 21-40).

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the mounting flange plates disclosed by Mitchel with the singular plate disclosed by Beck in order to more conveniently accommodate lug holes on vehicle wheels by avoiding to repeatedly remove a wheel and replace a plate. Furthermore, it is noted that applicant does not claim a single plate, but a single mounting flange assembly.

With reference to claim 25, Mitchell does not disclose indicia associated with each slot. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide an indicia associated with each slot, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add an indicia to every slot in order to be able to read the indicia if the other slots are obscured.

Allowable Subject Matter

9. Claims 2 & 9 are allowed.

10. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose or clearly suggest a system for mounting vehicle wheels each having an axial pilot hole and a plurality of radial spaced lug holes disposed in one of a plurality of symmetric and axially centered configurations, about a spindle shaft of a vehicle wheel balancer comprising one double tapered centering cone having a first tapered surface increasing in diameter from a first end, and a second tapered surface increasing in diameter from a second end axially opposite said first end, in combination with the remaining limitations in

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the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

11. Applicant's arguments with respect to claims 1, 3, 20-28, & 61-64 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
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tmr
November 28, 2005